



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,243	10/16/2001	Peter F. Reile	FSHR042/00US	2235

22903 7590 07/06/2004

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON, VA 20190-5061

EXAMINER

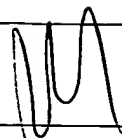
RADA, ALEX P

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/977,243	Applicant(s) REILE, PETER F. 	
	Examiner Alex P. Rada	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the Request for Continued Examination (RCE) in which the applicant amends claims 1, 4, 10-11, 13, 19, and 21-26, adds new claims 32-42, and claims 1-42 are pending in this office action.

Drawings

I. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claims 33-41 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-32, 35-37, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Hailey '999.

4. Hailey discloses the following:

A display (13), a toolbar menu (27) on the display, the toolbar menu enabling a selection from a plurality of interactive tools that are included on the toolbar menu (27), an interactive tool enable interaction with an activity that is displayed on the hand-held electronic toy, the plurality of interactive tools having a first set of interactive tools associated with a drawing activity (figure 3) and a second set of interactive tools associated with another activity (figures 3-4 and paragraph 35-37) as recited in claims 1 and 10.

A memory (12) for storing the activity displayed on the hand-held electronic toy as recited in claim 2.

The memory having a removable read-only memory cartridge (19) as recited in claims 3 and 12.

A communication device (18) configured to receive data from a second source (18 and paragraph 34) as recited in claims 4 and 13.

The second source having a read only memory cartridge (18 and paragraph 34) as recited in claims 5 and 14.

The second source having an Internet site (18 and paragraph 34) as recited in claims 6 and 15.

The second source having a second hand-held electronic device (18 and paragraph 34) as recited in claims 7 and 16.

A stylus (25) that enables a user to interact with the display (summary and figure 3) as recited in claims 8 and 17.

The stylus (25) allows the user to select the interactive tools and the activities displayed on the display (summary and figure 3) as recited in claims 9 and 18.

A memory for storing at least one of the first activity and the second activity (figure 4 and paragraph 36) as recited in claim 11.

Receiving a selection of one of a plurality of activities for display on a display of a hand-held electronic toy (figure 3 and 4), the plurality of activities having at least one drawing activity (figures 3-4), receiving a selection of an interactive tool (figures 3-4), the interactive tool being associated with a

selectable icon in a toolbar menu (figures 3-4), and displaying indicia of a characteristic of a selected interactive tool, the characteristics of the selected interactive tool including a drawing characteristic when a selected activity of the plurality of activities having at least one drawing activity (summary and figures 3-4) as recited in claim 19.

Determining a state of availability for the interactive tool (summary and paragraphs 35-38) as recited in claims 20 and 23.

The plurality of activities having a first activity and a second activity, the first activity being a drawing activity, displaying a first indicia associated with the drawing activity, and displaying a second indicia associated with the second activity, the first indicia being different than the second indicia (figures 3-4 and paragraphs 35-38) as recited in claim 21.

Retrieving a first activity application (50 in figure 4) from a memory (12) for display on a hand-held electronic toy, the first activity being a drawing activity application (figures 3-4), determining a first characteristic of an interactive tool included on a toolbar menus disposed on the hand held electronic toy (figures 3-4), the first characteristic being associated with the retrieved drawing activity application, retrieving a second activity application from a memory for display on the hand-held electronic toy (50 in figure 4), and determining a second characteristic of an interactive tool on the toolbar menu disposed on the hand-held electronic toy (figures 3-4), the second characteristic being associated with the retrieved second activity application (summary and paragraphs 35-38) as recited in claim 22.

Determining contents of a second menu of tool options that is associated with the selected interactive tool (figures 3-4 and paragraphs 35-38) as recited in claim 24.

Retrieving an activity application from a removable cartridge (19) as recited in claim 25.

Displaying a first selectable item on the hand-held electronic toy (figures 3-4), the first selectable item being associated with a drawing activity capable of being displayed on the hand-held electronic toy (figures 3-4), displaying a second selectable item on the hand-held electronic toy (figures 3-4 and paragraphs 35-38), the second selectable item being associated with an interactive tool, the interactive tool having a characteristic in a first state (figures 3-4), and upon receipt of a selection of the first selectable item on the hand-held electronic toy, determining whether to modify a state of the characteristic of the interactive tool from the first state associated with the drawing activity to a second state (summary) as recited in claim 26.

The characteristic is an availability of the interactive tool (figures 3-4) and is a menu of contents of the interactive tool (figures 3-4) as recited in claims 27-28.

The first set of interactive tools having different interactive tools than the second set of interactive tools (paragraphs 35-38 and figure 4) as recited in claim 29.

The first set of interactive tools includes the same interactive tools as the second set of interactive tools (paragraphs 35-38 and figure 4) as recited in claim 30.

A first memory (12) the first memory having a first activity, the first activity being a drawing activity, a tool bar menu (figures 3-4) having a plurality of interactive tools, the plurality of interactive tools being associated with one of a first set of characteristics and a second set of characteristics (figures 3-4), the first set of characteristics being associated with the drawing activity (figures 3-4) and a port (figure 2) configured to receive a second memory, the second memory having a second activity and having data associated with a second set of interactive tools, the second set of interactive tools having a second set of characteristics (summary and paragraphs 34-44) as recited in claim 31.

A touch-screen display (paragraph 30) and a printed toolbar on the touch-screen (paragraph 32-33 and figure 3), the printed toolbar having a plurality of selectable icons (figures 3-4), each of the plurality of selectable icons associated with a least one drawing tool (summary and figures 3-4) as recited in claim 32.

The at least one drawing tool having a primary shapes tool (figure 3), the primary shapes tool associated with a plurality of secondary shapes tools, the primary shapes tool configured to allow a user to select one of the plurality of secondary shapes tools, each of the plurality of secondary shapes tools configured to allow a user to render a corresponding one of a plurality of predetermined

shaped on the touch-screen display using a drawing stylus (figure 3 and paragraph 35) as recited in claim 35.

The hand-held electronic toy is configured to display a pop-up menu on the touch-screen display, the pop-menu having a graphical representation of the plurality of secondary shapes tools to the user (figure 3 and paragraph 35) as recited in claim 36.

The plurality of secondary shapes tools having a square, circle, and triangle tool, each of the shapes tool configured to render the corresponding one of the predetermined shapes on the touch-screen display in outline form (Figure 3 and paragraph 35) as recited in claim 37.

A touch-screen display (paragraph 30) and a printed toolbar on the touch-screen display (paragraph 32-33 and figure 3), the toolbar having a plurality of selectable icons, each of the plurality of selectable icons selectable using a stylus (25), the hand-held electronic toy configured to display a pop-up menu (figures 3-4) on the display based on a user-selection of at least one of the plurality of selectable icons as recited in claim 42.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3714

6. Claims 33-34 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hailey '999 in view of Microsoft Paint (copyright 1981-1998 version 4).

7. Hailey discloses the claimed invention as discussed above except for the following:

The at least one drawing tool having a straight line tool configured to allow a user to render lines on the touch-screen display using a drawing stylus at a user-selectable line thickness as recited in claim 33.

The hand-held electronic toy is configured to display a menu on the display, the menu having a graphical representation of a plurality of line thickness to the user as recited in claims 34.

The plurality of secondary shapes tools having a polygon tool, the polygon tool configured to render the corresponding one of the predetermine shapes on the touch-screen display by connecting a plurality of predetermined points with a plurality of straight lines as recited in claim 38.

The at least one drawing tool having a primary special effects tool, the primary special effects tool associated with a plurality of secondary special effects tools, the plurality of secondary effects tools configured to alter an image rendered on the display as recited in claim 39.

The display having a menu having a graphical representation of a plurality of secondary special effects tools to the user as recited in claim 40.

The plurality of secondary special effects tools having a reverse-out tool, a rotate tool, and a mirror tool as recited in claim 41.

Microsoft Paint teaches the following:

The at least one drawing tool having a straight line tool configured to allow a user to render lines on the touch-screen display using a drawing stylus at a user-selectable line thickness (see figure on page 11) as recited in claim 33.

The hand-held electronic toy is configured to display a menu on the display, the menu having a graphical representation of a plurality of line thickness to the user (see figure on page 11) as recited in claims 34.

The at least one drawing tool having a primary special effects tool, the primary special effects tool associated with a plurality of secondary special effects tools, the plurality of secondary effects tools configured to alter an image rendered on the display (see figure on page 13) as recited in claim 39.

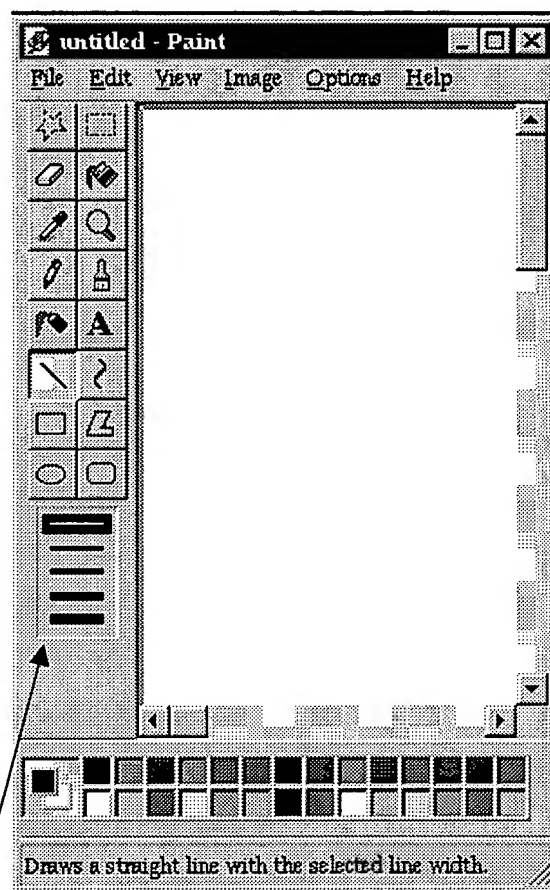
The display having a menu having a graphical representation of a plurality of secondary special effects tools to the user (see figure on page 13) as recited in claim 40.

The plurality of secondary special effects tools includes a reverse-out tool, a rotate tool, and a mirror tool (see figure on page 13) as recited in claim 41.

The plurality of secondary shapes tools having a polygon tool, the polygon tool configured to render the corresponding one of the predetermine shapes on the touch-screen display by connecting a plurality of predetermined points with a plurality of straight lines (see drawing on page 12) as recited in claim 38. By having a straight-line tool, a plurality of specialty effects tools, and a polygon tool, one of ordinary skill in the art would provide an easy way for a user to create and manipulate different shapes and figures with undiluted illustrations.

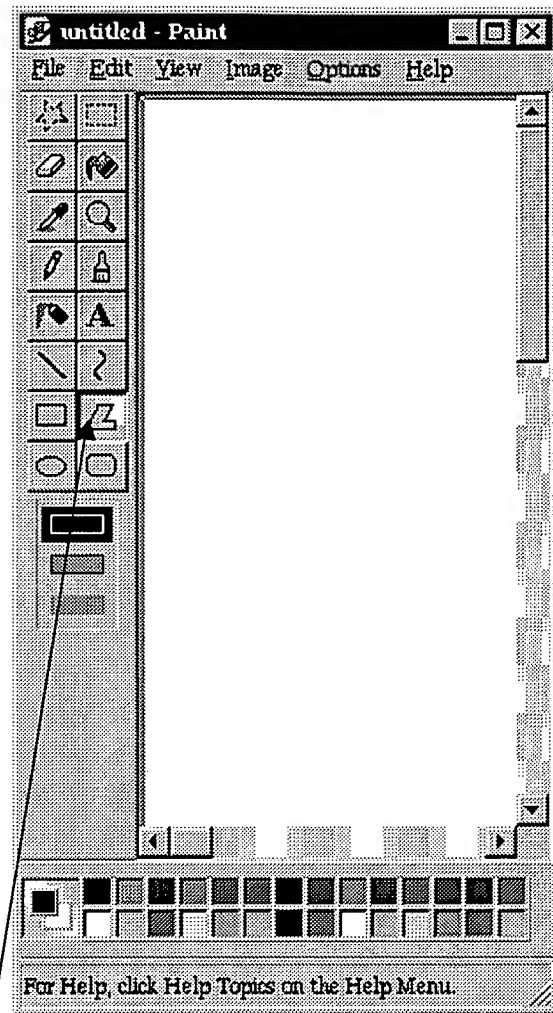
Art Unit: 3714

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hailey to include straight line tool, a plurality of different effects tools, and a polygon tool as taught by Microsoft Paint to provide an easy way for a user to create and manipulate different shapes and figures with undiluted illustrations.



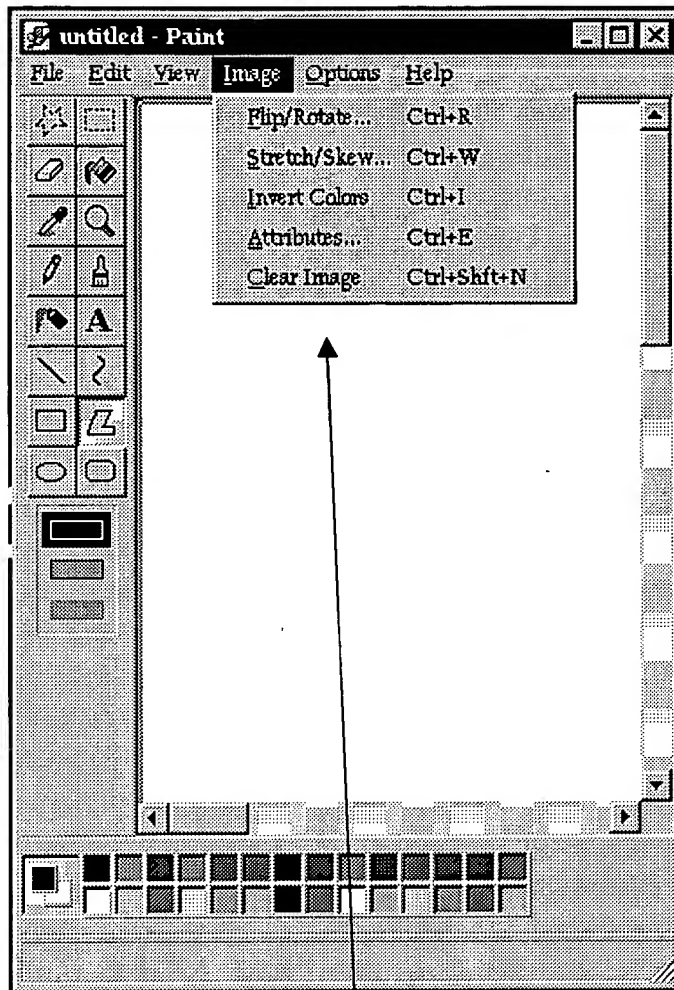
Straight-line tools with user-selectable thickness

Art Unit: 3714



Polygon tool

Art Unit: 3714



Primary and secondary
special effects tools

Art Unit: 3714

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

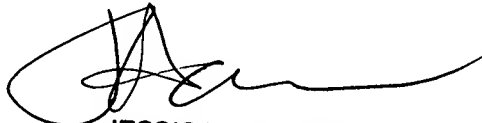
Sheasby '190 and Murakami disclose different computer imaging using graphic components.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Jessica Harrison can be reached on 703-308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APR
APR



JESSICA HARRISON
PRIMARY EXAMINER